



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.17661 OF 2021

AND

CRL.M.P.NO.9685 OF 2021

1.Ramajayam
2.Ezhumalai

... Petitioners

.Vs.

1. The State Rep by,
The Inspector of Police,
Cuddalore N.T Police Station,
Cuddalore.
(Crime No.360/2019).

2. Subramanian
3. Susitha

... Respondents

PRAYER:- Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records leading to the initiation of Spl.S.C.No.3 of 2021 pending on the file of Mahila Court at Cuddalore, and quash the same.

For Petitioners : Mr.A.Tamilvanan

For R1 : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Special S.C.No.3 of 2021, pending on the file of the Mahila Court, Cuddalore.

2. The gist of the case is that the 2nd respondent, the father of the victim girl/3rd respondent lodged a complaint to the 1st respondent is residing at No.81/148, Pillayar Kovil Street, Vadakuchipalayam, Chindamani Post, Villupuram District and he is working as daily wages and his daughter/victim girl/



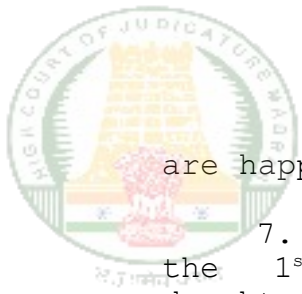
3rd respondent, aged about 17 years at the time of occurrence, was studying I.T.I., 1st year in Government Technical College, Cuddalore staying in college hostel. On 27.08.2019, at about 08.00 a.m., the victim girl had gone to college, but she did not return back home. Despite search was made in relatives house and other places, the 3rd respondent could not able to secure. Hence, a complaint was lodged by the 2nd respondent on 02.09.2021 and a case in Crime No.360 of 2019, under 'Girl Missing' was registered.

3. The mother of the 3rd respondent had given an information that his daughter/3rd respondent was standing in the Bus Stop opposite to K.N.C Womens College, Semmandalam. On receiving the instructions, the 1st respondent Police secured the 3rd respondent and the petitioners. On enquiry, the 3rd respondent has stated that the 1st petitioner on 27.08.2019, at about 08.00 a.m., kidnapped her without her consent and married her and had physical relationship in the house of the 2nd petitioner. Hence, Section altered from 'Girl Missing' to 366 IPC and Section 5(1), 6, 17 of the Protection of Children from Sexual Offence Act, 2012 as per alteration report, dated 09.01.2020. On further investigation, again altered the Sections to 366, 366(A) IPC and Sections 5(1), 5(j)(ii), 6, 17 of the Protection of Children from Sexual Offence Act, 2012 as per alteration report, dated 10.06.2020.

4. On examination of witnesses and collecting the medical report of the 1st petitioner and the 3rd respondent, birth certificate of the 3rd respondent and other documents, charge sheet filed before the learned Mahila Judge, Cuddalore and the same was taken on file as Special S.C.No.03 of 2021, for offence under Section 366, 366(A) and Sections 5(1), 5(j)(ii), 6, & 17 of the Protection of Children from Sexual Offence Act, 2012 and Sections 9 & 10 of the Prohibition of Child Marriage Act, 2006.

5. The learned counsel for the petitioners submitted that the 1st petitioner and the 3rd respondent, daughter of the 2nd respondent were in love affair with each other prior to the occurrence. On coming to know about the same, the 2nd respondent made arrangement for marriage of her daughter/3rd respondent with elder person, which was not agreeable to her. Hence, she forced the 1st petitioner to take her away, otherwise she would commit suicide. Having no other option, the 1st petitioner accompanied the 3rd respondent and they got married.

6. The learned counsel further submitted that the case is at the stage of trial, both the families are accepted the love affair between the 1st petitioner and the 3rd respondent and the marriage was solemnized on 22.04.2021 after the 3rd respondent attains majority and they are blessed with a girl child and they



are happily leading their matrimonial life.

7. The learned Additional Public Prosecutor appearing for the 1st respondent submitted that the 2nd respondent's daughter/victim girl/3rd respondent, aged about 17 years at the time of occurrence, was studying I.T.I., 1st year in Government Technical College, Cuddalore staying in college hostel. On 27.08.2019, at about 08.00 a.m., the victim girl had gone to college, but she did not return back home. Despite search was made in relatives house and other places, the 3rd respondent could not able to secure. Hence, a complaint was lodged by the 2nd respondent on 02.09.2021 and a case in Crime No.360 of 2019, under 'Girl Missing' was registered. The mother of the 3rd respondent had given an information that his daughter/3rd respondent was standing in the Bus Stop opposite to K.N.C Womens College, Semmandalam. The 1st respondent Police secured the 3rd respondent and the petitioners in the said bus stop. On enquiry, the 3rd respondent has stated that the 1st petitioner on 27.08.2019, at about 08.00 a.m., kidnapped her without her consent and married her and had physical relationship in the house of the 2nd petitioner. Hence, Section altered from 'Girl Missing' to 366 IPC and Section 5(1), 6, 17 of the Protection of Children from Sexual Offence Act, 2012 as per alteration report, dated 09.01.2020. On further investigation, again altered the Sections to 366, 366(A) IPC and Sections 5(1), 5(j)(ii), 6, 17 of the Protection of Children from Sexual Offence Act, 2012 as per alteration report, dated 10.06.2020. On completion of investigation, charge sheet filed before the learned Mahila Judge, Cuddalore and the same was taken on file as Special S.C.No.03 of 2021, for offence under Section 366, 366(A) and Sections 5(1), 5(j)(ii), 6, & 17 of the Protection of Children from Sexual Offence Act, 2012 and Sections 9 & 10 of the Prohibition of Child Marriage Act, 2006.

8. He further submitted that the relationship between the 1st petitioner and the victim girl/3rd respondent is spoken by the witnesses. The victim girl/3rd respondent was produced before the learned Judicial Magistrate for recording the statement under Section 164 Cr.P.C. The respondents 2 and 3 and the petitioners appeared before this Court. The respondents 2 and 3 filed their affidavit and reiterated the compromise arrived with the petitioners. They stated in the compromise memo that both the families are accepted the love affair between the 1st petitioner and the 3rd respondent and the marriage was solemnized on 22.04.2021 after the 3rd respondent attains majority and they are blessed with a girl child and they are happily leading their matrimonial life. Hence, they are not interested to further pursue case in Special S.C.No.3 of 2021 on the file of the Mahila Court, Cuddalore.



9. This Court considered the rival submissions and perused the materials available on record and also the affidavits filed by the respondents 2 and 3.

10. Today, the petitioners, respondents 2 and 3 are appeared before this Court. The victim girl/3rd respondent confirmed the relationship with the 1st petitioner and her commitment to get married. Further, she stated that she is staying with the 1st petitioner's family with the concurrence and approval of the 2nd respondent/her father. The relationship and the love affair between the 1st petitioner and the victim girl/3rd respondent is not denied. Since both the families accepted the love affair of the 1st petitioner and the 3rd respondent, a marriage was solemnized between them on 22.04.2021 after the victim girl/3rd respondent attains majority.

11. It is seen that the victim girl/3rd respondent forced the 1st petitioner to take her away, since her father/2nd respondent was making arrangement for marriage with someone. Having no option, the 1st petitioner accompanied the victim girl/3rd respondent and thereafter, they were secured by the 1st respondent and a case in Crime No.360 of 2019, under 'Girl Missing' was registered. The mother of the 3rd respondent had given an information that his daughter/3rd respondent was standing in the Bus Stop opposite to K.N.C Womens College, Semmandalam. The 1st respondent Police secured the 3rd respondent and the petitioners in the said bus stop. On enquiry, the 3rd respondent has stated that the 1st petitioner on 27.08.2019, at about 08.00 a.m., kidnapped her without her consent and married her and had physical relationship in the house of the 2nd petitioner. Hence, Section altered from 'Girl Missing' to 366 IPC and Section 5(1), 6, 17 of the Protection of Children from Sexual Offence Act, 2012 as per alteration report, dated 09.01.2020. On further investigation, again altered the Sections to 366, 366(A) IPC and Sections 5(1), 5(j)(ii), 6, 17 of the Protection of Children from Sexual Offence Act, 2012 as per alteration report, dated 10.06.2020. On completion of investigation, charge sheet filed before the learned Mahila Judge, Cuddalore and the same was taken on file as Special S.C.No.03 of 2021, for offence under Section 366, 366(A) and Sections 5(1), 5(j)(ii), 6, & 17 of the Protection of Children from Sexual Offence Act, 2012 and Sections 9 & 10 of the Prohibition of Child Marriage Act, 2006. LW1 is the complainant/2nd respondent; LW2 is the victim girl/3rd respondent, LW4 and LW5 are other witnesses; LW5 and LW6 are witnesses to the Observation Mahazar; LW7 and LW8 are the hearsay witnesses; LW13 is the witness to the confession statement of the accused; LW16 and LW17 are the Doctors who have treated the 1st petitioner and the victim girl/3rd respondent and LW24 to LW27 are the Police officials who took part in the investigation.



12. The case is at the stage of trial. By passage of time, both the families are accepted the love affair of the victim girl/3rd respondent and the 1st petitioner and conducted the marriage on 22.04.2021 and they are blessed with a girl child and leading their matrimonial life happily. Further, the respondents 2 and 3 have their affidavits stating that they are not interested to prosecute the case in Special S.C.No.3 of 2021.

13. In this case, the elopement is on the compulsion of the victim girl/3rd respondent. While being so, the 1st petitioner is not to be blamed. The 2nd petitioner, in this case, only permitted the 1st petitioner and the victim girl/3rd respondent to stay in his home, other than than, no allegation made against him.

14. This Court in the case of "Sabari Vs. Inspector of Police reported in 2019(2) MLJ Cr1.110", had observed that during the adolescent age, boys and girls got involved in a relationship, such relationship would be the result of mutual innocence and biological attraction, which cannot be construed as an unnatural one or alien to between relationship of opposite sexes.

15. In a similar situation in the case of "Kumar @ Tennish Vs. The Inspector of Police, Latheri Police Station, Katpadi Taluk, Vellore and another in Cr1.O.p.No.16648 of 2018", this Court had quashed the proceedings on the compromise arrived between the accused and defacto complainant.

16. In view of the above and the compromise arrived between the parties, this Court finds that continuation of the proceedings will serve no purpose and it is only be an abuse of process of law.

17. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the case in Special S.C.No.3 of of 2021, on the file of the Mahila Court, Cuddalore is hereby quashed and the affidavits filed by the victim girl/3rd respondent and the 2nd respondent shall form part and parcel of this case. Consequently, the connected Miscellaneous Petition is closed.

* Xerox Copies of Affidavit of R2 & R3 is enclosed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vv2



To

1. The Mahila Court,
Cuddalore.
2. The Inspector of Police,
Cuddalore N.T Police Station,
Cuddalore.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.Tamilvanan, Advocate, S.R.No.59280

CRL.O.P.NO.17661 OF 2021

PL (CO)
PBS/14/12/2021